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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant: Russell F. Durgin et al

Docket No.: H-TBK

Serial No.: 09/956,902

Art Unit: 3731

Filed: September 2, 2001

Examiner: G. Jackson

For: "Apparatus and Method for Compressing Body Tissue"

TERMINAL DISCLAIMER UNDER 37 CFR 1.321(b)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The above-identified patent application and U.S. Patent No. 6,428,548 are 100% commonly owned by Ovesco Endoscopy GmbH. The assignment relating to the above-identified application is noted in the USPTO Assignment Division, Reel 013452/ Frame 0715, and a copy of the assignment of USSN 09/443,219 (now U.S. Patent 6,428,548) is enclosed herewith. The owner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of U.S. Patent No. 6,428,548. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and U.S. Patent No. 6428,548 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the applicants, their successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the aforesaid U.S. Patent No. 6,428,548 in the event that such patent later: expires for failure to pay a maintenance fee; is held unenforceable; is found invalid by a court of competent jurisdiction; is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321; has all claims canceled by a re-examination certificate; is reissued; or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

I (We) hereby declare that all statement made herein of my (our) own knowledge are true

and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statement may jeopardize the validity of the application or any patent issued thereon.

Date: 3-1-04


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